

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CAMERON BELL,

Plaintiff,

v.

STRUCK LOVE BOJANOWSKI AND
ACEDO PLC, *et al.*,

Defendants.

Case No. 2:21-cv-00365-KJD-BNW

SCREENING ORDER ON
AMENDED COMPLAINT
(ECF No. 8-1)

Plaintiff, who is in the custody of the Federal Bureau of Prisons (“BOP”), has submitted an amended civil rights complaint pursuant to 42 U.S.C. § 1983, and has filed two applications to proceed *in forma pauperis*¹, a motion to send a copy of his lawsuit to a news station, and a motion for docket sheet. (ECF Nos. 4, 5, 8, 8-1, 9). Plaintiff has submitted multiple complaints in this case (see ECF Nos. 1-1, 5-1, 8-1). The Court treats the amended complaint submitted at ECF No. 8-1 as the operative complaint because amended pleadings supersede the original complaint. See *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989) (holding that “[t]he fact that a party was named in the original complaint is irrelevant; an amended pleading supersedes the original”). The Court now screens Plaintiff’s amended civil rights complaint (ECF No. 8-1) under 28 U.S.C. § 1915A and addresses the motions.

I. SCREENING STANDARD

Federal courts must conduct a preliminary screening in any case in which an incarcerated person seeks redress from a governmental entity or officer or employee of a governmental entity. See 28 U.S.C. § 1915A(a). In its review, the court must identify any cognizable claims and dismiss any claims that are frivolous, malicious, fail to state a

¹ The Court denies Plaintiff’s first application to proceed *in forma pauperis* (ECF No. 4) as moot and grants his second application to proceed *in forma pauperis* (ECF No. 5).

1 claim upon which relief may be granted, or seek monetary relief from a defendant who is
2 immune from such relief. See *id.* § 1915A(b)(1), (2). *Pro se* pleadings, however, must be
3 liberally construed. *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1990).
4 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential elements:
5 (1) the violation of a right secured by the Constitution or laws of the United States, and
6 (2) that the alleged violation was committed by a person acting under color of state law.
7 See *West v. Atkins*, 487 U.S. 42, 48 (1988).

8 In addition to the screening requirements under § 1915A, pursuant to the Prison
9 Litigation Reform Act ("PLRA"), a federal court must dismiss an incarcerated person's
10 claim if "the allegation of poverty is untrue" or if the action "is frivolous or malicious, fails
11 to state a claim on which relief may be granted, or seeks monetary relief against a
12 defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2). Dismissal of a
13 complaint for failure to state a claim upon which relief can be granted is provided for in
14 Federal Rule of Civil Procedure 12(b)(6), and the court applies the same standard under
15 § 1915 when reviewing the adequacy of a complaint or an amended complaint. When a
16 court dismisses a complaint under § 1915(e), the plaintiff should be given leave to amend
17 the complaint with directions as to curing its deficiencies, unless it is clear from the face
18 of the complaint that the deficiencies could not be cured by amendment. See *Cato v.*
19 *United States*, 70 F.3d 1103, 1106 (9th Cir. 1995).

20 Review under Rule 12(b)(6) is essentially a ruling on a question of law. See
21 *Chappel v. Lab. Corp. of Am.*, 232 F.3d 719, 723 (9th Cir. 2000). Dismissal for failure to
22 state a claim is proper only if it is clear that the plaintiff cannot prove any set of facts in
23 support of the claim that would entitle him or her to relief. See *Morley v. Walker*, 175 F.3d
24 756, 759 (9th Cir. 1999). In making this determination, the court takes as true all
25 allegations of material fact stated in the complaint, and the court construes them in the
26 light most favorable to the plaintiff. See *Warshaw v. Xoma Corp.*, 74 F.3d 955, 957 (9th
27 Cir. 1996). Allegations of a *pro se* complainant are held to less stringent standards than
28 formal pleadings drafted by lawyers. See *Hughes v. Rowe*, 449 U.S. 5, 9 (1980). While

1 the standard under Rule 12(b)(6) does not require detailed factual allegations, a plaintiff
 2 must provide more than mere labels and conclusions. *Bell Atl. Corp. v. Twombly*, 550
 3 U.S. 544, 555 (2007). A formulaic recitation of the elements of a cause of action is
 4 insufficient. *Id.*

5 Additionally, a reviewing court should “begin by identifying pleadings [allegations]
 6 that, because they are no more than mere conclusions, are not entitled to the assumption
 7 of truth.” *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009). “While legal conclusions can provide
 8 the framework of a complaint, they must be supported with factual allegations.” *Id.* “When
 9 there are well-pleaded factual allegations, a court should assume their veracity and then
 10 determine whether they plausibly give rise to an entitlement to relief.” *Id.* “Determining
 11 whether a complaint states a plausible claim for relief . . . [is] a context-specific task that
 12 requires the reviewing court to draw on its judicial experience and common sense.” *Id.*

13 Finally, all or part of a complaint filed by an incarcerated person may therefore be
 14 dismissed *sua sponte* if that person’s claims lack an arguable basis either in law or in fact.
 15 This includes claims based on legal conclusions that are untenable (e.g., claims against
 16 defendants who are immune from suit or claims of infringement of a legal interest which
 17 clearly does not exist), as well as claims based on fanciful factual allegations (e.g.,
 18 fantastic or delusional scenarios). See *Neitzke v. Williams*, 490 U.S. 319, 327–28 (1989);
 19 see also *McKeever v. Block*, 932 F.2d 795, 798 (9th Cir. 1991).

20 **II. SCREENING OF AMENDED COMPLAINT**

21 In the amended complaint, Plaintiff reiterates the basis of a prisoner civil rights
 22 lawsuit that he filed in federal court on October 23, 2017. (ECF No. 8-1 at 7). Plaintiff
 23 asserts that the judge in that case ruled in favor of the defendants on summary judgment.
 24 (*Id.*) However, Plaintiff alleges that the defendants’ attorney in that case, Ashlee Hesman,
 25 her law firm, and other representatives of CoreCivic, fabricated video footage and
 26 materially altered a medical report causing Plaintiff to lose \$8 million in relief. (*Id.*) Struck
 27 Love Bojanowski and Acedo PLC, a law firm, and the Nevada Attorney General
 28

1 committed fraud upon the court to present false and deceitful evidence. (*Id.* at 7-8).
 2 Plaintiff seeks \$1 million in this case. (*Id.* at 10).

3 The Court dismisses this case with prejudice as amendment would be futile. This
 4 lawsuit is attempting to challenge rulings and alleged fraudulent conduct that took place
 5 in a different federal civil rights lawsuit. If Plaintiff wants to challenge the rulings in that
 6 other lawsuit, he needs to file an appeal in that other case. If Plaintiff is trying to change
 7 the final judgment or order in that other case due to fraud, Plaintiff should review Federal
 8 Rule of Civil Procedure 60(b)(3) and file the appropriate motion in that other case. Rule
 9 60(b)(3) provides that “[o]n motion and just terms, the court may relieve a party or its legal
 10 representative from a final judgment, order, or proceeding for the following reasons . . .
 11 fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct
 12 by an opposing party.”

13 The Court denies Plaintiff’s motion to send copies of his lawsuit to a news channel
 14 (ECF No. 8). The Court grants Plaintiff’s motion for a copy of the docket sheet (ECF No.
 15 9).

16 **III. CONCLUSION**

17 It is therefore ordered that the first application to proceed *in forma pauperis* (ECF
 18 No. 4) is denied as moot.

19 It is further ordered that Plaintiff’s application to proceed *in forma pauperis* (ECF
 20 No. 5) without having to prepay the full filing fee is **granted**. Plaintiff will **not** be required
 21 to pay an initial installment fee. Nevertheless, the full filing fee will still be due, pursuant
 22 to 28 U.S.C. § 1915, as amended by the Prison Litigation Reform Act. The movant herein
 23 is permitted to maintain this action to conclusion without the necessity of prepayment of
 24 fees or costs or the giving of security therefor.

25 It is further ordered that, pursuant to 28 U.S.C. § 1915, as amended by the Prison
 26 Litigation Reform Act, the Federal Bureau of Prisons will forward payments from the
 27 account of **Cameron Bell, #49789-048** to the Clerk of the United States District Court,
 28 District of Nevada, 20% of the preceding month's deposits (in months that the account

1 exceeds \$10.00) until the full \$350 filing fee has been paid for this action. The Clerk of
2 the Court will send a copy of this order to the Finance Division of the Clerk's Office. The
3 Clerk will send a copy of this order to the attention of **Chief of Inmate Services**, USP
4 Victorville, U.S. Penitentiary, P.O. Box 5400, Adelanto, CA 92301.

5 It is further ordered that the full filing fee will still be due, pursuant to 28 U.S.C.
6 §1915, as amended by the Prison Litigation Reform Act, even though this action is
7 dismissed.

8 It is further ordered that Clerk of the Court file the amended complaint (ECF No. 8-
9 1) and send Plaintiff a courtesy copy. This is the operative complaint.

10 It is further ordered that the amended complaint (ECF No. 8-1) is dismissed in its
11 entirety with prejudice as amendment would be futile.

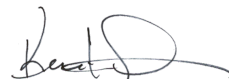
12 It is further ordered that the motion to send a copy of the lawsuit to a news channel
13 (ECF No. 8) is denied.

14 It is further ordered that the motion for a copy of the docket sheet (ECF No. 9) is
15 granted. The Clerk of the Court will send Plaintiff a courtesy copy of the docket sheet.

16 It is further ordered that the Clerk of the Court will close this case and enter
17 judgment accordingly.

18 It is further ordered that this Court certifies that any *in forma pauperis* appeal from
19 this order would **not** be taken "in good faith" pursuant to 28 U.S.C. § 1915(a)(3).

20
21 DATED THIS 9 day of November 2021.

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UNITED STATES DISTRICT JUDGE